

## **REMARKS/ARGUMENTS**

Claims 1-17 remain in this application. Claims 1-8, 12 and 17 have been amended to more clearly define the invention.

### **The Office Action**

The Examiner has rejected claims 1-7 and 17 under 35 U.S.C. 112, first paragraph, asserting they fail to comply with the enablement requirement. The Examiner states that these claims contain subject matter not described in the specification in a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner's comments are specifically directed to "resource adaptors" as recited in the claims. A similar rejection has been previously addressed and seemingly overcome. Nevertheless, applicants continue to stand by their previous argument that a person skilled in the relevant art would understand the subject matter in question.

The Examiner concedes that resource adapter is a class used in objected oriented programming of the invention which provides for a uniform interface to access APIs of resources. Figure 2 serves to illustrate this relationship. Exactly why the Examiner is unsure about this is unclear. The description goes on to present an application scenario in Figure 6 wherein the Bidders decide on which kind of resource adapter they want the bid manager to use for the bidding protocol. One skilled in the art would readily understand such an application scenario. As such, it is believed that any further definition would only serve to unduly narrow the scope for which patent protection is sought.

The Examiner has rejected claims 1-17 under 35 U.S.C. 112, second paragraph, asserting the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner has identified an antecedent issue with respect to the term "bid manager" in claims 1, 3, 8, 12, and 17. Attached is an amended claim set wherein the term in question has been amended in accordance with the suggestion put forth by the Examiner.

The Examiner also rejected claim 1, asserting the limitation "one of the resource adapters being a caching adaptor for maintaining cached bids" is unclear. The Examiner suggests there is no mention of resource adaptors having regard to the discussion of caching adapters on page 6 of the specification. The Examiner is directed to page 7, lines 12 to 14, wherein it is stated that "the first diagram (Figure 6) shows the Bidders deciding

which kind of ResourceAdapter they want to Bid Manager to use for the bidding protocol (i.e. whether or not to use caching)." This clearly establishes a relationship between the caching adaptor and the resource adapter. As such, it is believed a person skilled in the relevant art would have no difficulty understanding the subject matter in question.

The Examiner has rejected claims 1-7 under 35 U.S.C. 101 asserting the claimed invention is directed to non-statutory subject matter. Claim 1, as amended, relates to a computer-readable storage medium encoded with a data structure defining structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. See MPEP 2106.01. As such, applicants submit that claims 1-7 are directed to statutory subject matter under 35 U.S.C. 101 and are thus allowable.

The Examiner has rejected claims 1-17 under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent No. 6,005,925) in view of Yee (U.S. Patent No. 6,738,975) in view of Baidur (U.S. Patent No. 6,073,176) in further view of Kou (U.S. Patent No. 6,363,365). As presented in *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed.Cir. 1990), the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In the present invention, claim 1, as amended, recites, inter alia, "instructions for creating a plurality of resource adapters for providing a uniform interface to access application program interfaces of said resources, one of said resource adapters being a caching adapter for maintaining cached bids for predetermined contexts from predetermined ones of said bidders, receiving from said bid manager agent said call for bids and issuing said cached bids to said bid manager agent instead of requiring said predetermined bidders to issue said bids, and a no-caching adapter for receiving from said bid manager agent said call for bids, re-issuing said call for bids to ones of said bidders other than said predetermined bidders, receiving said bids from said ones of said bidders other than said predetermined bidders and sending said bids to said bid manager agent." In assembling the rejection, the general concept of a cache for storing bids is not presented until the final reference (Kou), after two previous prior art combinations. Applicants submit that the "desirability of the combination" is just not present in the prior art. Further, it seems highly unlikely that such a combination would have been obvious without the assistance of hindsight. As stated in *In re McLaughlin*, 443 F.2d 1392, 170

USPQ 209 (CCPA 1971), "so long as [the hindsight reconstruction] takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper."

Applicants respectfully submit that the reconstruction presented by the Examiner is improper as the use of a Caching Adapter within a multi-agent caching system "for maintaining cached bids for predetermined contexts" falls squarely into the realm of "knowledge gleaned only from the applicants' disclosure." One would not have been able to arrive at the present reconstruction presented in the Action without such knowledge from the disclosure. This is a classic example of impermissible hindsight.

As such, applicants submit that the rejection of claims 1-17 is improper and should be withdrawn.

### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-17) are now in condition for allowance.

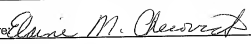
Respectfully submitted,

FAY SHARPE LLP



John S. Zanghi, Reg. No. 48,843  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2579  
216-861-5582

11/16/07  
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